IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 34451 of 2007(B)

PETITIONER:

ROSY PHILIP, AGED 41 YEARS,
W/O.DR.FELIX SHULTON, SALPHI COTTAGE,
STARCH JUNCTION, VELLIMON P.O., KUNDARA,
KOLLAM.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. LAND REVENUE COMMISSIONER,
GOVERNMENT OF KERALA, PUBLIC OFFICE BUILDING,
THIRUVANANTHAPURAM.

3. DISTRICT COLLECTOR, KOLLAM.

4. TAHSILDAR (REVENUE RECOVERY),
KOLLAM.

5. SALES TAX OFFICER, KUNDARA, KOLLAM.

BY GOVERNMENT PLEADER SRI.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/11/2007, ALONG WITH WPC NOS.34457 & 34466/07, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) Nos.34451, 34457 & 34466 OF 2007

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Dated this the 22nd November, 2007

J U D G M E N T

The facts of these writ petitions and the reliefs sought, being common, these cases are disposed of by this common judgment.

2. For the disposal of these cases, I shall first refer to the facts in WP(C) No.34451 of 2007. The petitioner's mother had acquired certain properties by a sale deed, which was settled in favour of the petitioner by settlement deed of 2000. Petitioner submits that she is in possession and enjoyment of the property since then. In 2006, by Ext.P2, the property was attached by the respondents for realisation of the sales tax arrears of her deceased father and the objection filed was rejected by Ext.P3. Against the said order, revision was filed before the Land Revenue Commissioner and that was disposed of by Ext.P6 rejecting the contentions. Still later, petitioners

pursued the matter by filing revision before the 1st respondent invoking its power under Section 83(2) of the Kerala Revenue Recovery Act. Ext.P7 in this case is the revision and Ext.P8 is the application for stay that has been filed. It is stated that Exts. P7 and P8 are still pending and in the meanwhile, in view of the threat of continuance of revenue recovery proceedings, these writ petitions have been filed.

3. The contention of the petitioner is that the property now proceeded is an asset that has been acquired by her mother and was not a part of the estate of her father and that the property is not liable to be proceeded against for the debt of her father. That contention appears to have been rejected by the District Collector as also by the Land Revenue Commissioner.

4. In any case, since the petitioner has got a valid contention in this respect, I dispose of this writ petition directing that the 1st respondent shall consider Ext.P7 revision filed by the petitioner, as expeditiously as possible, at any rate within 8 weeks

of receipt of a copy of this judgment. In the meantime, further proceedings pursuant to the revenue recovery action that is already initiated against the petitioner shall be kept in abeyance.

5. In WP(C) No.34457/07, the facts are identical except that the revision that is pending before the 1st respondent-Government is Ext.P8 and the stay petition is Ext.P9. As already directed in WP(C) No.34451/07, the 1st respondent herein shall dispose of Ext.P8 revision keeping in abeyance further revenue recovery proceedings against the petitioner.

6. In WP(C) No.34466/07 also the revision filed by the petitioner is Ext.P9 and the stay petition is Ext.P10. This shall also be disposed of by the 1st respondent.

7. Needless to say, before final orders are passed, notice should be given to the petitioners in these cases and they should also be given an opportunity for hearing. The 1st respondent shall dispose of the Revision Petitions as ordered above, within two months of receipt of a copy of this

judgment.

Petitioners shall produce a copy of this judgment before the 1st respondent for compliance.

Writ petitions are disposed of.

ANTONY DOMINIC
JUDGE

Rp/-